ASSEMBLY BILL

No. 1844

Introduced by Assembly Member Campos

February 22, 2012

An act to add Chapter 2.5 (commencing with Section 980) to Part 3 of Division 2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1844, as introduced, Campos. Employer use of social media.

Existing law generally regulates the conduct of employers in the state. Under existing common law, an employer has a duty to exercise reasonable care in employing a person and is required to use reasonable care to discover whether a potential employee is unfit or incompetent.

This bill would provide that an employer does not fail to exercise reasonable care to discover whether a potential employee is unfit or incompetent by the employer's failure to search or monitor social media, as defined, before hiring the employee.

This bill would also prohibit an employer from requiring an employee or prospective employee to disclose a user name or account password to access social media used by the employee or prospective employee.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 2.5 (commencing with Section 980) is
2 added to Part 3 of Division 2 of the Labor Code, to read:

1   CHAPTER 2.5. EMPLOYER USE OF SOCIAL MEDIA
2
3   980. As used in this chapter, "social media" means an electronic
4 medium where users may create and view user-generated content,
5 including uploading or downloading videos or still photographs,
6 blogs, video blogs, podcasts, or instant messages.
7   981. For purposes of a claim of negligent hiring, an employer
8 does not fail to exercise reasonable care to discover whether a
9 potential employee is unfit or incompetent by the employer's
10 failure to search or monitor social media before hiring the
11 employee.
12   982. An employer shall not require an employee or prospective
13 employee to disclose a user name or account password to access
14 social media used by the employee or prospective employee.

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